IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 132 of 2005

Alka Hanumant Salunkhe & ors. .. Petitioners

versus

Dwarkabai Hanumant Salunkhe & anr. .. Respondents

...

Mr.Dilip Bodake for the petitioner.

Mr.P.J. Thorat i/b R.A. Thorat for the respondents.

CORAM : B.H. MARLAPALLE,J

DATED : 12th September 2005.

P.C.:

1. Heard Shri Bodke, the learned counsel for the appellant and Mr. Thorat for the respondent.

2. There is no dispute that the appellant no.1 Alkabai was married to late Hanumant in the year 19599, while his marriage with Smt.Dwarkabai was subsisting. The lower appellate Court therefore held that under section 5 of the Hindu Marriage Act 1955, Alkabai’s marriage with late Hanumant was void.

Resultantly, she was not entitled to claim any pensionary benefits or share the same with Dwarkabai. The Lower Appellate Court also did not take into consideration the claim of appellant nos.2 to 7 who are the children of Alkabai.. The Court has noted that appellant nos.2 to 7 were neither unmarried nor minors and therefore, they could not have any claim in the pensionary benefits, which are available only to the dependants who are minors or unmarried of the deceased.

3. No error could therefore be found with the view taken by the Lower Appellate Court..

4. The Revision is rejected summarily but it is clarified that the impugned decision of the Lower Appellate Court is only in respect of the claim on pensionary benefits and it would not preclude any of the appellants from raising their claim in the property of late Hanumant, as may be permissible in law.

B.H. MARLAPALLE, J